

ELECTRONICALLY FILED
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 Equity Security Holders of USA Capital First Trust Deed Fund, LLC

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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

11 In re:)	BK-S-06-10725-LBR
12 USA COMMERCIAL MORTGAGE COMPANY,	)	Chapter 11
13 Debtor.)	
14 In re:	)	BK-S-06-10726-LBR
15 USA CAPITAL REALTY ADVISORS, LLC,	)	Chapter 11
16 Debtor.)	
17 In re:	)	BK-S-06-10727-LBR
18 USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC,	)	Chapter 11
19 Debtor.)	
20 In re:	)	BK-S-06-10728-LBR
21 USA CAPITAL FIRST TRUST DEED FUND, LLC,	)	Chapter 11
22 Debtor.)	
23 In re:	)	BK-S-06-10729-LBR
24 USA SECURITIES, LLC,	)	Chapter 11
25 Debtor.)	
26 Affects)	
27 <input type="checkbox"/> All Debtors	)	Date: April 26, 2007
28 <input type="checkbox"/> USA Commercial Mortgage Co.	)	Time: 9:30 a.m.
<input type="checkbox"/> USA Securities, LLC)	
<input checked="" type="checkbox"/> USA Capital Realty Advisors, LLC)	
<input type="checkbox"/> USA Capital Diversified Trust Deed)	
<input checked="" type="checkbox"/> USA First Trust Deed Fund, LLC)	

27 **LIMITED RESPONSE OF THE OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS
OF USA CAPITAL FIRST TRUST DEED FUND, LLC TO OMNIBUS OBJECTION OF USA
CAPITAL REALTY ADVISORS, LLC TO MISFILED CLAIMS (AFFECTS DEBTORS USA
CAPITAL REALTY ADVISORS, LLC AND USA CAPITAL FIRST TRUST DEED FUND, LLC)**

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TO THE HONORABLE LINDA B. RIEGLE, UNITED STATES BANKRUPTCY JUDGE:

In response to the "Omnibus Objection of USA Capital Realty Advisors, LLC to Misfiled Claims," (the "Objection") [docket no. 3019], the Official Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC (the "FTDF Committee") hereby submits a limited response as follows:

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PURPOSE OF RESPONSE.

8 1. In the Objection, USA Capital Realty Advisors, LLC ("USA Realty")
9 objects to forty (40) proofs of claim filed against USA Realty on the grounds that "they are in
10 reality claims against either USACM or one of the Funds." Objection, at 3, ¶ 12. Where the
11 claims subject to objection "were filed against both USA Realty and the appropriate Debtor",
12 they are referred to as Duplicate Misfiled Claims. Id.

13 2. According to Exhibit A to the Objection, three of the Duplicate Misfiled
14 Claims are claims against USA Capital First Trust Deed Fund, LLC ("FTDF") and therefore
15 should be disallowed in their entirety against USA Realty. Specifically, USA Realty requests
16 that claim number 10726-00029 filed by Debra A Gant-Hickel & Russel J Hickel ("Hickel") in
17 the amount of \$33,245.88 (the "Hickel Claim"), claim number 10726-00005 filed by Frieda
18 Moon & Sharon C. Van Ert in the amount of \$35,583.34, and claim number 10726-00006 filed
19 by Frieda Moon & Sharon C. Van Ert ("Moon & Van Ert") in the amount of \$17,538.18
20 (together with claim number 10729-00004, the "Moon & Van Ert Claims") be disallowed in their
21 entirety against USA Realty. With respect to each of these claims, Exhibit A to the Objection
22 states that, "Claim is against FTDF and claimant has already filed the same claim against FTDF."

23 3. The FTDF Committee submits this response (a) to inform the Court that
24 the FTDF Committee has already objected to claims in the same amount filed against FTDF by
25 Hickel and Moon & Van Ert, and that such objections have already been ruled upon and
26 sustained by the Court; and (b) to ensure that any order sustaining the Objection (i) does not
27 deem the Moon & Van Ert Claims or the Hickel Claim to have been filed against FTDF and (ii)

1 does not conflict with the prior orders of the Court sustaining the FTDF Committee's objections
 2 to claims filed by Hickel or Moon & Van Ert.

3 **II.**

4 **RELEVANT PROOFS OF CLAIM FILED AGAINST FTDF**

5 **A. Objections to Claims Filed by Moon & Van Ert**

6 4. On August 1, 2006, the FTDF filed the "Omnibus Objection of the
 7 Official Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC to
 8 Claims Based on Prepetition Equity Security Interests of USA Capital First Trust Deed Fund,
 9 LLC" [docket no. 1066] (the "First Claim on Equity Objection"). Among the claims subject to
 10 the First Claim on Equity Objection were claim number 10728-00006 and claim number 10728-
 11 00007, both of which were filed by Moon & Van Ert in the respective amounts of \$35,583.34
 12 and \$17,538.18. The FTDF Committee requested that such claims be reclassified as proofs of
 13 interest in FTDF as the claims were based on membership interests in FTDF. On September 14,
 14 2006, the Court entered an order granting the relief requested [docket no. 1278].

15 5. Claim number 10728-00006 (filed against FTDF and subsequently
 16 reclassified as a proof of interest in FTDF) is identical to claim number 10726-00005 (filed
 17 against USA Realty), which is the subject of the Objection. True and correct copies of claim
 18 number 10728-00006 and claim number 10726-00005 are attached hereto as Exhibits "1" and
 19 "2," respectively.

20 6. Claim number 10728-00007 (filed against FTDF and subsequently
 21 reclassified as a proof of interest in FTDF) is identical to claim number 10726-00006 (filed
 22 against USA Realty), which is the subject of the Objection. True and correct copies of claim
 23 number 10728-00007 and claim number 10726-00006 are attached hereto as Exhibits "3" and
 24 "4," respectively.

25 7. Because claims identical to the Moon & Van Ert Claims have been filed
 26 against FTDF and have been reclassified as proofs of interest in FTDF pursuant to order of this
 27 Court, in ruling upon the Objection, the Court should not deem the Moon & Van Ert Claims to
 28 have been filed against FTDF.

1 **B. Objection to Claim Filed by Hickel**

2 8. On February 13, 2007, the FTDF filed the "Sixth Omnibus Objection of
 3 the Official Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC –
 4 Claims Based on Prepetition Equity Security Interests of USA Capital First Trust Deed Fund,
 5 LLC" [docket no. 2748] (the "Second Claim on Equity Objection"). Among the claims subject
 6 to the Second Claim on Equity Objection was claim number 10728-00041, which was filed by
 7 Hickel in the amount of \$33,245.88. The FTDF Committee requested that such claim be both
 8 reclassified as a proof of interest in FTDF in the amount of \$31,976.00 and disallowed to the
 9 extent it exceeded \$31,976.00, as the claim was based upon Hickel's membership interest in
 10 FTDF as well as upon the alleged book value of that membership interest. On March 21, 2007,
 11 the Court entered an order granting the relief requested [docket no. 3229].

12 9. Claim number 10728-00041 (filed against FTDF and subsequently
 13 reclassified in part as a proof of interest in FTDF and disallowed in part) is identical to claim
 14 number 10726-00029 (filed against USA Realty), which is the subject of the Objection. True
 15 and correct copies of claim number 10728-00041 and claim number 10726-00029 are attached
 16 hereto as Exhibits "5" and "6," respectively.

17 10. Because a claim identical to the Hickel Claim has been filed against FTDF
 18 and has been reclassified as a proof of interest in FTDF in part and disallowed in part pursuant to
 19 order of this Court, in ruling upon the Objection the Court should not deem the Hickel Claim to
 20 have been filed against FTDF.

21 **WHEREFORE**, the FTDF Committee requests that in ruling on the Objection,
 22 the Court (i) not deem the Moon & Van Ert Claims or the Hickel Claim to have been filed
 23 against FTDF; (ii) not enter an order inconsistent with the orders sustaining the FTDF
 24 Committee's objections to claim numbers 10728-00006 and 10728-00007 filed by Moon & Van
 25 Ert against FTDF, which claims have been reclassified as proofs of interest in the FTDF case;
 26 and (iii) not enter an order inconsistent with the order sustaining the FTDF Committee's
 27 objection to claim number 10728-00041 filed by Hickel against FTDF, which claim has been
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1 reclassified in part as a proof of interest in the FTDF case and disallowed in part.

2 Respectfully submitted this 18 day of April, 2007.

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